

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 34012

STATE OF IDAHO,)	2008 Unpublished Opinion No. 455
)	
Plaintiff-Respondent,)	Filed: May 7, 2008
)	
v.)	Stephen W. Kenyon, Clerk
)	
PAUL WILLIAM McNABB,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Deborah A. Bail, District Judge.

Judgment of conviction and unified sentence of twenty years, with a minimum period of confinement of five years, for robbery, affirmed.

Molly J. Huskey, State Appellate Public Defender; Diane M. Walker, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Rebekah A. Cudé, Deputy Attorney General, Boise, for respondent.

PER CURIAM

Paul William McNabb was convicted of robbery, Idaho Code §§ 18-6501, -6502, with a lesser included charge of assault, I.C. § 18-901. The district court imposed a unified sentence of twenty years, with a minimum period of confinement of five years for robbery and a concurrent 90-day jail sentence for assault. McNabb appeals, contending that the robbery sentence is excessive.

Sentencing is a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of a sentence are well established and need not be repeated here. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). In *State v. Oliver*, 144 Idaho 722, 726 n.1, 170 P.3d 387, 391 n.1 (2007), the Idaho Supreme Court held that

in reviewing the length of a sentence, we must consider the defendant's entire sentence, including the indeterminate term, while reiterating the longstanding presumption that the fixed portion of the sentence will be the defendant's probable term of confinement. We have interpreted *Oliver* as requiring that the indeterminate portion of a sentence be reviewed to determine whether it is reasonable as a term of parole. *State v. Whittle*, 145 Idaho 49, 175 P.3d 211 (Ct. App. 2007). Accordingly, we examine the five-year determinate portion of McNabb's sentence for its reasonableness as a period of incarceration and the indeterminate fifteen-year term as a probable period of parole. Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion.

Therefore, McNabb's judgment of conviction and sentence are affirmed.